

IC 15-4-10

Chapter 10. Indiana Corn Market Development Law

IC 15-4-10-1**Application of chapter**

Sec. 1. This chapter applies to all kinds and varieties of corn, including seed corn, marketed or sold as corn by a producer in Indiana except sweet corn and popcorn. As used in this chapter, "corn" does not include sweet corn or popcorn.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-2**"Bushel" defined**

Sec. 2. As used in this chapter, "bushel" means fifty-six (56) pounds of corn by weight.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-3**"Council" defined**

Sec. 3. As used in this chapter, "council" refers to the Indiana corn marketing council established by this chapter.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-4**"Director" defined**

Sec. 4. As used in this chapter, "director" refers to the commissioner of agriculture or the person designated by the commissioner of agriculture to carry out duties imposed on the commissioner under this chapter.

As added by P.L.191-1987, SEC.8. Amended by P.L.21-1989, SEC.3.

IC 15-4-10-5**"First purchase" defined**

Sec. 5. As used in this chapter, "first purchase" means a sale of corn at the first point of delivery, when the corn is weighed and graded and title to the corn is transferred.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-6**"First purchaser" defined**

Sec. 6. As used in this chapter, "first purchaser" means a person who is engaged in Indiana in the business of buying grain from producers. The term does not include a buyer of grain who buys less than fifty thousand (50,000) bushels of grain annually for the buyer's own use as seed or feed.

As added by P.L.191-1987, SEC.8. Amended by P.L.232-2001, SEC.1.

IC 15-4-10-6.5**"Grain" defined**

Sec. 6.5. As used in this chapter "grain" has the meaning set forth under IC 26-4-1-13.

As added by P.L.232-2001, SEC.2.

IC 15-4-10-7

"Market development" defined

Sec. 7. As used in this chapter, "market development" means:

- (1) to provide for the development of new or larger domestic and foreign markets for corn;
- (2) to promote the production and marketing of renewable fuels and new technologies that use corn; and
- (3) to access federal government money available to the state to further the market development activities described in subdivisions (1) and (2).

As added by P.L.191-1987, SEC.8. Amended by P.L.232-2001, SEC.3.

IC 15-4-10-8

"Marketing year" defined

Sec. 8. As used in this chapter, "marketing year" means the twelve (12) month period beginning September 1 and ending the following August 31.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-9

"Person" defined

Sec. 9. As used in this chapter, "person" means an individual, a partnership, a limited liability company, a public or private corporation, a political subdivision (as defined in IC 36-1-2-13), a cooperative, a society, an association, or a fiduciary.

As added by P.L.191-1987, SEC.8. Amended by P.L.8-1993, SEC.238.

IC 15-4-10-10

"Producer" defined

Sec. 10. As used in this chapter, "producer" means any person engaged in the business of producing and marketing corn in Indiana under the producer's own name.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-11

"Sale" defined

Sec. 11. As used in this chapter, "sale" means a conveyance of title to corn or the pledge or other encumbrance of corn as security for a loan extended by the Commodity Credit Corporation under a federal price support loan program.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-12

Indiana corn marketing council; establishment; membership;

residence; expenses

Sec. 12. (a) The Indiana corn marketing council is established. The council is a public body corporate and politic, and though it is separate from the state, the exercise by the council of its powers constitutes an essential governmental function. The council may sue and be sued and plead and be impleaded.

(b) The council shall be composed of fifteen (15) members. The elected members from districts listed under section 16(a) of this chapter must be:

- (1) registered as voters in Indiana;
- (2) at least eighteen (18) years of age; and
- (3) producers.

(c) Each elected member of the council must reside in the district identified in section 16(a) of this chapter from which the member was elected.

(d) Each member of the council is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency. However, council members are not entitled to any salary or per diem.

As added by P.L.191-1987, SEC.8. Amended by P.L.232-2001, SEC.4; P.L.74-2004, SEC.4.

IC 15-4-10-13**Term of office**

Sec. 13. (a) The term of office of an elected or appointed council member is three (3) years. A member's term of office expires at the end of the final marketing year in the term. However, a member continues in office until a successor who meets the qualifications set forth in section 12(b) of this chapter is elected.

(b) An elected or appointed council member may not hold office for more than three (3) consecutive full terms.

As added by P.L.191-1987, SEC.8. Amended by P.L.5-1988, SEC.80; P.L.232-2001, SEC.5.

IC 15-4-10-14**Vacancies in office**

Sec. 14. (a) If an elected member of the council ceases to meet one (1) or more of the qualifications set forth in section 12(b) of this chapter, the member's term of office terminates and the member's office becomes vacant.

(b) When an elected council member's office becomes vacant before the expiration of the member's term of office, the council shall fill the vacancy by appointing a replacement member who meets the qualifications set forth in section 12(b) of this chapter. The appointee shall serve for the remainder of the unexpired term.

(c) When the office of a council member appointed under section 16(c) of this chapter to represent first purchaser organizations becomes vacant before the expiration of the member's term of office,

the director shall fill the vacancy by appointing a replacement member who represents a first purchaser organization. The appointee shall serve for the remainder of the unexpired term.

(d) When an appointed council member's office representing the senate becomes vacant before the expiration of the member's term of office, the president pro tempore of the senate shall fill the vacancy by appointing a replacement member who represents the senate and is a member of the same political party as the appointed council member who vacated the office. When an appointed council member's office representing the house of representatives becomes vacant before the expiration of the member's term of office, the speaker of the house of representatives shall fill the vacancy by appointing a replacement member who represents the house of representatives and is a member of the same political party as the appointed council member who vacated the office. An appointee under this subsection shall serve for the remainder of the unexpired term.

As added by P.L.191-1987, SEC.8. Amended by P.L.232-2001, SEC.6.

IC 15-4-10-15

Appointment of nonvoting council members

Sec. 15. When necessary the council may appoint individuals who hold offices of importance to the corn industry or have special expertise concerning that industry to participate in the work of the council, but these individuals may not participate in votes taken by the council.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-16

Districts from which members elected

Sec. 16. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, Dekalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence,

Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

DISTRICT 9. The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

DISTRICT 10. All counties in Indiana.

(b) The dean of the school of agriculture at Purdue University or the dean's designee shall serve as an ex officio member of the council.

(c) The director shall appoint two (2) representatives of first purchaser organizations to serve as members of the council.

(d) The president pro tempore of the senate shall appoint one (1) member of the senate to serve as a member of the council. The speaker of the house of representatives shall appoint one (1) member of the house of representatives to serve as a member of the council. The members appointed under this subsection are ex officio members of the council. These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

As added by P.L.191-1987, SEC.8. Amended by P.L.232-2001, SEC.7; P.L.74-2004, SEC.5.

IC 15-4-10-17

Time of election; notice

Sec. 17. An election of a council member shall be held in a district in the year in which the term of the district's council member is to expire. Between April 1 and April 15 of that year, the council shall notify the producers of the district of the impending election by publishing one (1) notice in a statewide agricultural publication and by making information available to the news media in the district.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-18

Ballots; petition forms

Sec. 18. (a) The ballot for the election of a district council member must bear the name of each producer who:

(1) meets the qualifications set forth in section 12(b) of this chapter; and

(2) files with the director, before June 16 of the year of the election, a petition in support of candidacy signed by ten (10) other producers who reside in the district.

(b) The director shall provide petition forms upon request and shall make forms available at cooperative extension service offices located in the district. The director shall determine the position of names on the ballot by drawing lots and shall provide the producers who have qualified to have their names on the ballot with advance notice of the time and place of the drawing.

(c) No names other than the names of the producers who have

qualified under this subsection may be printed on the ballot by the director. A name may not be written in on the ballot by a producer. *As added by P.L.191-1987, SEC.8. Amended by P.L.232-2001, SEC.8.*

IC 15-4-10-19

Absentee ballots

Sec. 19. (a) For the purposes of the election of a district council member, the director shall provide an absentee ballot to every producer who:

- (1) resides outside Indiana or expects to be absent from the district in which the producer resides on the day of the election;
- (2) requests an absentee ballot from the director no more than thirty (30) days before the election; and
- (3) files with the director a notarized affidavit swearing or affirming that the producer is eligible to vote in the election.

(b) A producer's absentee ballot is not valid unless the director receives the ballot and the affidavit from the producer at least two (2) working days before the election.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-20

Election judges; teller committee; expenses

Sec. 20. (a) The director shall appoint election judges for the election of council members. The director shall also appoint a teller committee to count absentee ballots and to canvass and certify results of elections of council members.

(b) Each election judge or teller committee member appointed under this section is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with official duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency, but is not entitled to any salary or per diem.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-21

Time and place of election; taking office

Sec. 21. The election of a district council member shall be conducted by the council in August at voting places located within the district. The winner of an election takes office on the following September 1.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-22

Duties of council

Sec. 22. (a) The council shall do the following:

- (1) Elect a chairman, vice chairman, secretary, treasurer, and other officers the council considers necessary.
- (2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

- (3) Bond the treasurer and such other persons as necessary to ensure adequate protection of funds received and administered by the council.
- (4) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.
- (5) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.
- (6) Annually publish an activities and financial report and present this report to the director.
- (7) Procure and evaluate data and information necessary for the proper implementation of this chapter.
- (8) Formulate and execute assessment procedures and methods of collection.
- (9) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.
- (10) Take any other action necessary for the proper implementation of this chapter.

(b) Seven (7) affirmative votes are required for the council to take action.

As added by P.L.191-1987, SEC.8. Amended by P.L.232-2001, SEC.9; P.L.74-2004, SEC.6.

IC 15-4-10-23

Meetings of council

Sec. 23. The council shall meet at least once in each of the following periods:

- (1) January, February, and March.
- (2) April, May, and June.
- (3) July, August, and September.
- (4) October, November, and December.

As added by P.L.191-1987, SEC.8.

IC 15-4-10-24

Payment of expenses; investments; market development

Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money it receives under this chapter, including assessments, gifts, and grants, in any way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development.

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

As added by P.L.191-1987, SEC.8. Amended by P.L.232-2001, SEC.10; P.L.74-2004, SEC.7.

IC 15-4-10-24.5

Indiana corn market development account

Sec. 24.5. (a) The Indiana corn market development account is established within the state general fund for the purpose of market development. The account shall be administered by the council. The account consists of:

- (1) assessments the council receives under this chapter;
- (2) gifts; and
- (3) grants.

(b) The expenses of administering this chapter shall be paid from money in the account. If the balance of the account is not more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may expend not more than twenty-five percent (25%) of the balance for administrative expenses. If the account has a balance of more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may spend an additional amount of not more than ten percent (10%) of the balance over five hundred thousand dollars (\$500,000) for administrative expenses.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the account is continually appropriated to the council for purposes of this chapter.

As added by P.L.74-2004, SEC.8.

IC 15-4-10-25

Liability for debts and actions of council

Sec. 25. (a) Obligations incurred by the council and other liabilities and claims against the council may be enforced only against the assets of the council in the same manner as if it were a corporation. No liabilities for the debts or actions of the council may arise against:

- (1) the state;
- (2) any political subdivision (as defined in IC 34-6-2-110); or
- (3) any member, officer, employee, or agent of the council in an individual capacity.

(b) The members and employees of the council may not be held responsible individually in any way to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, or employee, except for their own individual acts that result in the violation of any law.

(c) No employee of the council may be held responsible individually for the act or omission of any member of the council.

(d) Any liability of the members of the council is several and not joint. A member of the council may not be held liable for the default of any other member.

As added by P.L.191-1987, SEC.8. Amended by P.L.1-1998,

SEC.113.

IC 15-4-10-26

Assessments; collection; handling fee

Sec. 26. (a) An assessment of one-half cent (\$0.005) per bushel is permitted on all corn sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once, and shall be collected by the first purchaser if the producer exercises the option under subsection (b) to be included in the assessment. An assessment shall not be conducted on the producer without the producer's written consent. The rate of the assessment imposed by this section may be increased only by the general assembly.

(b) In conjunction with the producer's first settlement with the first purchaser following June 30, 2001, the first purchaser shall make available to the producer the forms granting the producer the option to be included in the assessment and inform the producer of the option to be included. If the producer desires to be included in the assessment, the producer shall complete and sign a form, in writing, indicating the producer's desire to be included in the assessment permitted by subsection (a). It is a producer's obligation to return enrollment forms to a first purchaser. The first purchaser shall keep a record of each producer's desire to be included in the assessment, as indicated on the completed forms. Forms completed by a producer shall remain in effect until repealed in writing by the producer and delivered to the first purchaser. The initial enrollment by producers who want to participate in the corn marketing program must occur from July 1, 2001, through August 31, 2001. Corn market development assessments collected by a first purchaser begin on September 15, 2001. A change in participation by a producer to be included in the assessment or to discontinue the assessment does not take effect until July 1 following the producer's election to change. The office of the commissioner of agriculture shall prescribe the forms to be used under this subsection and distribute the forms to the first purchaser prior to July 1, 2001. The council shall reimburse the office of the commissioner of agriculture for the costs of preparation and distribution of the forms required by this subsection from the funds the council receives under this chapter. Auditing fees collected from this program and all other programs by the Indiana grain buyers and warehouse licensing agency revert to the office of agriculture account to cover administrative costs.

(c) If the producer indicates the desire to be included in the assessment permitted under subsection (a) by following the procedure described in subsection (b), the first purchaser of a quantity of corn shall deduct the assessment on the corn from the sum of money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:

- (1) January, February, and March.
- (2) April, May, and June.
- (3) July, August, and September.

(4) October, November, and December.

(d) At the end of each period, the first purchaser shall remit to the council all assessments collected during the period. A first purchaser who remits all assessments collected during a period within fifteen (15) days after the end of the period is entitled to retain three percent (3%) of the total of the assessments as a handling fee.

As added by P.L.191-1987, SEC.8. Amended by P.L.5-1988, SEC.81; P.L.232-2001, SEC.11.

IC 15-4-10-27

Records of assessments

Sec. 27. (a) A first purchaser shall keep detailed records of all assessments collected and remitted under this chapter.

(b) Upon request, a first purchaser shall supply the council with any information from records kept under subsection (a).

As added by P.L.191-1987, SEC.8.

IC 15-4-10-28 Repealed

(Repealed by P.L.232-2001, SEC.13.)

IC 15-4-10-29

Repealed

(Repealed by P.L.232-2001, SEC.13.)

IC 15-4-10-30

Failure to remit assessments; comments; penalties; civil actions

Sec. 30. (a) If a first purchaser fails to remit the assessments collected during a period defined in section 26 of this chapter within forty-five (45) days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

- (1) the status and amount of the assessments due; and
- (2) any reasons why the council should not bring legal action against the first purchaser.

(b) After allowing a first purchaser the opportunity to present comments, the council:

- (1) shall adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate; and
- (2) may assess a penalty against the first purchaser of no more than ten percent (10%) of the amount of any assessments not remitted within forty-five (45) days after the end of the period.

(c) If a first purchaser fails to remit assessments after being allowed to present comments under subsection (a) or to pay any penalty assessed under subsection (b), the council may bring a civil action against the first purchaser in the circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

- (1) a judgment in the amount of all unremitted assessments and

any unpaid penalty; and

(2) an award of the costs of bringing the action.

As added by P.L.191-1987, SEC.8. Amended by P.L.232-2001, SEC.12.

IC 15-4-10-31

Failure to discharge a duty other than remitted assessments

Sec. 31. (a) If a person fails to discharge a duty imposed by this chapter other than remitted assessments, the council shall allow that person an opportunity to present comments to the council on any reasons why the council should not bring legal action against the person. If it is necessary to obtain compliance with this chapter, the council may bring an action against the person in the circuit, superior, or municipal court of any county, seeking an injunction mandating compliance and any other appropriate legal remedies.

(b) In an action under this section, the council may be granted injunctive relief without establishing the absence of an adequate remedy at law.

As added by P.L.191-1987, SEC.8.